

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting held in Commissioners Meeting Room,

Third Floor, Historic Court House,

Boonville, IN

Monday, March 11, 2013, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President, Jeff Valiant, Vice President, Mike Moesner, Brad Overton, Richard Reid, Amanda Mosiman, and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer and Molly MacGregor, Staff.

MEMBERS ABSENT: None

MINUTES: Upon a motion made by Mike Moesner and seconded by Richard Reid, the Minutes of the Executive Session held January 13, 2013 and the Minutes of the last regular meeting held February 11, 2013, were unanimously approved as circulated.

The President explained the rules of procedure.

PP-13-03 – Martin Bell Subdivision by Ciholas Properties LLC, Mike Ciholas, Pres. OWNERS OF RECORD: Fredrick F. Martin and Frederick F. Martin Revocable Trust of 2004, Frederick F. Martin, Trustee. 35.65 acres located on the E side of Bell Rd. approximately 200' S of the intersection formed by Bell Rd. (W 850) & Vann Rd. (S 350), Ohio Twp. Complete legal on file. *Advertised in the Boonville Standard on February 28, 2013.*

Mike Ciholas was present.

The President called for a staff report.

Mrs. Rector stated we do have all return receipts, two were returned to sender due to no deliverable address, to Cinda Cason and William & Lisa Rush, however they were sent to the addresses on file in the Auditor's Office so it is in order. Mrs. Rector said the property is zoned Agriculture and "C-4" General Commercial. Mrs. Rector said some flood plain exists along the front of the proposed Lot 1, a small portion. Mrs. Rector added there are two lots. She said the acreage ranges from 17.42 acres to 18.23 acres, and the minimum acreage for an Agriculture zoning is .5 acres unless septic is required which then requires 2.5 acres. Mrs. Rector added there is no minimum acreage for the C-4 zoning therefore both lots conform to the zoning ordinance. Mrs. Rector stated the Commissioners' ruled no improvements to Bell Road and Vann Road and

they have submitted a commercial driveway entrance on lot 1, which has been approved by the county engineer. Mrs. Rector said the drainage plans were approved by the Drainage Board with the condition that a new Certificate of Compliance is submitted tomorrow that is signed by a different individual from Neikirk Engineering, so approval of this primary plat would be subject to that being brought in. Mrs. Rector said Chandler Sewer has lines in place and is ready for connection, and Chandler Water has lines in place and are ready for connection. Mrs. Rector added the proposed subdivision is a two lot subdivision. Mrs. Rector said lot 2 will have access to Vann Road to the north and Bell Road to the West and is zoned Agriculture with no proposed development plans at this time. Mrs. Rector said lot 1 will have access to Bell Road and is zoned "C-4". Mrs. Rector added this lot is the proposed location for Ciholas Properties Inc., which is proposed to be an engineering design services. Mrs. Rector added we received an email from an adjacent property owner from Tod Bischoff stating "Dear Sherri, after talking to other residences on Covington Court we have no problems with Ciholas development on Bell Road and welcome him to the community." Mrs. Rector added the plat is in technical conformity to the Subdivision Control Ordinance.

The President asked Mr. Ciholas if he had anything to add to the staff report.

Mr. Ciholas said no.

The President asked if there were any questions from the Board or any remonstrators for or against this project.

Mike Klopfenstein said he lives adjacent to the north part of the property and asked why the property was rezoned first, which only covered part of the property, and then divided because what would happen if the subdivision was not approved.

Mrs. Rector said as long as a subdivision is in conformity to the Subdivision Control Ordinance and Indiana Code then it must be approved unless they can find some safety issue to deny it. Mrs. Rector added that Mr. Ciholas wanted to make sure that the rezoning went through before he purchased the property. Mrs. Rector said that lot 2, the remaining property that belongs to Mr. Martin, can only be used for agricultural purposes until such time as he was to redevelop it or rezone it and he will be notified.

Mr. Klopfenstein said he didn't have a problem with the development but he was just curious as to why they would rezone only a portion of it and then petition to separate it.

Mrs. Rector said it is far more expense to go through engineering to develop street plans, drainage plans, platting and so forth than it is to go through the rezoning.

The President asked if there were any more questions.

Jeff Jenkins said he lives adjacent to the property along Vann Road, he was wondering if the access to Vann Road was planned to be paved or was it remaining a dirt road in the field.

Mrs. Rector said they have no plans for lot 2.

The President said it has access but it is not being developed so there is no additional road plans at this time.

Mrs. Rector stated since it was such a large piece of property they had to subdivide it to be legal to sell it to Mr. Ciholas, so they had to create the 2 lots.

Ascertaining there were no more remonstrators and no more questions from the Board, The President called for a motion.

Mike Moesner made a motion to approve PP-13-03 subject to the conditions discussed.

The motion was seconded by Amanda Mosiman and unanimously approved.

PP-13-04- Triple M Subdivision by Randy & Christine McGuire. 3.75 acres located on the W side of Stevenson Station Rd. approximately 987' N of the intersection formed by Stevenson Station Rd. (W 1025) & Telephone Rd. (S 200), Ohio Twp. Complete legal on file. *Advertised in the Boonville Standard on February 28, 2013.*

Randy McGuire and Bill Bivins were present.

The President called for a staff report.

Mrs. Rector stated we have all white return receipts, missing one green card from Michael E. Lee. Mrs. Rector said the zoning is "C-3" Highway Commercial and "C-4" General Commercial. Mrs. Rector said there is 500 year flood plain and "AE" 100 year flood plain and any new construction in the 100 year flood plain will need to be built 2 feet above the base flood elevation. Mrs. Rector said a portion of the property where the house sits received a LOMA removing it from the flood plain, and the LOMA will cover most of the proposed lot 2 and part of lot 1 toward the road. Mrs. Rector said it is 2 lots, lot 1 is zoned "C-3" and "C-4", lot 2 is zoned "C-4", and there is no minimum lot size requirement for commercial zoning. Mrs. Rector stated lot 2 is currently the owners' residence, which is allowed in "C-4" zoning. She said lot 2 has an existing business and they are not creating any additional lots, they are moving a lot line to give lot 2 road frontage. Mrs. Rector said the Commissioners' ruled no improvements to Stevenson Station Road, and the Drainage Board ruled no drainage plans required. Mrs. Rector said both lots have existing septic and have been signed off by the Health Department. Mrs. Rector said we have a letter from Chandler stating they have sufficient pressure and flow and the lines are in place and available for connection. Mrs. Rector stated the problem that they ran into, according to Rob Coghill, the Chandler Utilities Director, is the meters for both lots are currently on lot 2, and the property owners have worked out an arrangement to move one of the meters onto lot 1. Mrs. Rector said that we have a letter from Chandler stating that will be fine but they will need to get that worked out with the secondary plat to show that the meters have been taken care of. Mrs. Rector stated it is in technical conformity.

The President asked the applicants if they had anything to add to the staff report.

Bill Bivins stated it is the property located beside the golf cart place owned by the boat company.

The President asked the Board if they had any questions.

Attorney Doll asked if they were getting road access for lot 1 because the staff report said it was for lot 2.

Mrs. Rector said it was for lot 1.

Ascertaining there were no remonstrators present and no questions from the Board, The President called for a motion.

Brad Overton made a motion to approve PP-13-04 on the condition that the water issues are taken care of.

The motion was seconded by Richard Reid and unanimously approved.

PP-13-05 – Fieldcrest Place PUD 2 by Fieldcrest LLC, Tommy Thompson, Managing Mbr. 8.31 acres located on the N side of Lincoln Ave approximately 3,075' E of the intersection formed by Lincoln Ave. (S 450) & Grimm Rd. (W 1000) and 805' W of the intersection formed by Lincoln Ave. & Huntington Cir., Ohio Twp. Complete legal on file. *Advertised in the Boonville Standard on February 28, 2013.*

Jim Morley Junior was present.

The President called for a staff report.

Mrs. Rector stated we have all return receipts from certified mail. Mrs. Rector said the zoning is "R-2" Multiple Family, and there is no flood plain on the property. Mrs. Rector stated it is a 28 lot subdivision and the minimum lot size required is 6,000 sq. ft. or 3,000 sq. ft. per dwelling, whichever is greater. Mrs. Rector said on December 19, 2001 Fieldcrest PRUD was approved, and in 2002 section 1 was approved and recorded. Mrs. Rector said the primary plats expire after 5 years without an extension. Mrs. Rector said this plat is the remaining property from the original primary plat that expired and since we no longer have PRUD's this is titled as a PUD. Mrs. Rector added they are proposing private streets within the development, there will be out-lots located within the streets for landscaping that will be maintained by the owners association, and the private streets were approved by the Commissioners' in the respect that they meet the Subdivision Control Ordinance standards for private streets. Mrs. Rector stated there are proposed water and sewer lines shown running through the proposed right-of-way that will require consent agreements from the appropriate utility unless they are moved out of the R-O-W. Mrs. Rector stated these must be provided prior to the recording of the secondary plat. Mrs.

Rector added that after the staff report was done she received an email from Mr. Morley that Newburgh sewer had granted them on January 9, 2002 an agreement to have the sewer lines within the right-of-way with the conditions that the materials used be a certain size pipe in a 114 foot section, so they will be held to that. Mrs. Rector stated they will need a consent agreement from Indiana-American; however Indiana-American Water Company has said that they have water available with adequate pressure. Mrs. Rector added it is a PUD with private streets, they are proposing 5 foot setbacks instead of the 6 and 15 foot building set-back lines instead of 25. Mrs. Rector stated this was all approved in the original PRUD that came before us several years ago, none of that has changed. Mrs. Rector added it is in technical conformity.

The President asked if the applicant had anything to add to the staff report.

Jim Morley Jr. said that it is a nice project and thankfully people are buying houses again so there is a need for more lots.

Amanda Mosiman asked if the lots 1 through 53 were already sold and was that what was done before.

Jim Morley Jr. said the top half of the plat, the lighter lined work, is what has already been a secondary, and the darker line work at the bottom is what is being reprimaried today. Mr. Morley said for the most part the legal description hasn't changed and they have switched PRUD to PUD and that about all that has changed. Mr. Morley added that as far he knows it is the same plat that was approved ten years ago.

The President asked if there were any other questions by the Board members.

Ascertaining there were no questions from the Board and no remonstrators present The President called for a motion.

Rick Reid made a motion to approve PP-13-05

Brad Overton seconded the motion and was unanimously approved.

OTHER BUSINESS:

Formal Complaint ~ Frank Schnell dba FIT Tire Recycling, OWNER OF RECORD: J.H. Service Co., Inc., by Ronald Witt, Sr., Pres. ~ Tire storage ~ Progress Report.

Mrs. Rector stated that Isaiah Schnell telephoned the office last Friday and reported that they have a company that is going to remove all the tires to come into compliance. Mrs. Rector said attached is an email from DeerPath Recyclers for Isaiah to forward to the Plan Commission from the company. Mrs. Rector said it states "while no documents have been signed yet, DeerPath Recyclers have agreed: 1. they will deliver trailers to FIT facility & trailers will be loaded by FIT personnel. 2. DeerPath will transport the full loads back to Dowagiac MI for processing. 3. They estimate there will be 25-30 semi-trailers filled. 4. They will deliver trailers as soon as

documents are signed and approval from IDEM. 5. The estimated completion time is 45 days after the documents are signed: trailers could be delivered as soon as week of March 11th. 6. DeerPath will furnish both FIT & IDEM with copies of each Manifest for every load of tires hauled away.”

Mrs. Rector said also, attached is an email from Tom Leas of IDEM stating that DeerPath Recyclers has tentatively agreed to clean up stockpiled tires in lieu of payment for getting a shredder and other equipment owned by Fit Tires and partially funded under the Indiana Waste Tire Grant Program. Mrs. Rector said it has been approved by IDEM. Mrs. Rector added conditions require that all tires, including tires stored inside and outside buildings, and including tubes and related tire scrap, to be removed from facility property by April 30, 2013 and before DeerPath takes possession of equipment. Mrs. Rector said the company estimates the removal of about 30 semi-trailer loads.

Mrs. Rector said they have researched this company and they are a big company that does a lot of things with tires so hopefully everything will be taken care of.

Brad Overton asked if Fit Tire was going out of business.

Mrs. Rector said yes, they are taking all of their equipment for payment. Mrs. Rector said once they stop no one else can go in there do it, it is only by person and application, and if it ceases for 6 months it is gone anyway, she would have to look at the Ordinance to be sure. Mrs. Rector asked if they would like for her to keep this issue on the agenda for May.

The President said yes, skip next month and put it on the May agenda.

Formal Complaint ~ Elizabeth Ison (Gary Crickmer)~ 966 Russell Road ~Alleged Junk/Salvage Yard and operation of trash sorting business in an “A” Agriculture zoning district. Guy Gentry took pictures of the property February 26, 2013 and they appear to be no longer in violation.

Mrs. Rector said she agreed except Mr. Fultz came back into the office and submitted a bunch of pictures which are the ledger size photos and the pictures on the back, the 8 ½ by 11 are the ones Guy took. Mrs. Rector stated his fence is still there but a fence is a fence, and she did not really see any zoning violations.

Brad Overton asked the President since he was there taking pictures what was his opinion.

The President said the fence has fallen over more, but it was leaning anyway and he is not sure it was ever totally secured; at least if it is falling it is falling back onto their property. The President referred to a picture labeled trash and said it was stumps and he doesn’t know if he would call that trash, it probably needs to be picked up sometime but may or may not be used as firewood. The President said the dumpster was there, it was full but not overflowing, he assumed it would be dumped. The President asked Mr. Fulz when he took the pictures.

Mr. Fulz said he took them the day after The President was there.

The President asked if the dumpster was still there.

Mr. Fulz said the dumpster was still there and the car is still there. Mr. Fulz said the last meeting they had, the lawyer told him he would have to get all of the vehicles off of the property or have them tagged and insured and what he did was take a ten day tag off a January car of last year and put it on there to tag it. Mr. Fulz said obviously it is not being insured. Mr. Fulz added that they are really concerned about the road out there because all of the trailers coming in and out at different times of the night, past 7:00 at night and sometimes 6:00 in the morning. Mr. Fulz said the other part was they have people coming up and down the road various times of the day and night, they don't know who these people are. Mr. Fulz said he has been around long enough to know that when he sees people with tattoos all over their bodies some of them are prison people. Mr. Fulz said they are concerned, they had five families in here at the last meeting and they want an end to this. Mr. Fulz said the trailers tear up stuff causing mud holes.

The President asked if the traffic was still continuing to come in and out.

Mr. Fulz said yes it was, and the employee cars are supposed to be at 912 Main Street in Boonville and there is no such thing because a house sits at that address.

Mrs. Rector said that he does have items in Boonville where the old X-Market used to be.

Mr. Fulz said he wants the trailers to stop, wants him to pick up his stuff, and get the trash container out of there and make it a decent place to look at.

Amanda Mosiman asked if the trailer was still sitting there.

Mr. Fulz said the trailer is coming in and out all day long.

Amanda Mosiman asked if it was the big black one that he had loaded up in the photos.

Mr. Fulz said yes, it is loaded up to the top. Mr. Fulz said you can't look at those pictures and think that something shouldn't be done.

The President said that if you look at the pictures you also have to agree that a lot has been done. The President stated that most of his pictures were concentrated out on the roadway at Russell Road; he didn't take any pictures back down the lane, which it looks like we are concentrating on here. The President explained that his photos concentrated on what was the worst part which is up around the garage and most of that is gone and he doesn't understand why the dumpster has not been moved.

Mrs. Rector stated that she didn't know if you can't have a dumpster at your house. She said that is not a zoning violation.

Attorney Doll stated that it is not overflowing.

Mr. Fulz said that is was though.

Attorney Doll said that in the photographs presented to him the dumpster is not overflowing and he did not think that a judge would find this to be in violation of any Zoning Ordinance.

Mr. Fulz asked what about the people coming in there all day long.

Attorney Doll asked if it was a public road.

Mr. Fulz said no Warrick County owns it.

Attorney Doll said then it is a public road, and that anybody with a valid license can drive on it, and we don't have jurisdiction over who drives on the highways.

Mr. Fulz said he is not talking about driving; he is talking about leaving them there.

Attorney Doll said if they are in the public right-of-way that's something that the Warrick County Sherriff's department may be able to address.

Mr. Fulz said they have been out there so many times.

Attorney Doll explained that vehicles are their primary jurisdiction, not ours.

Mr. Fulz said what he was going by is what Mr. Reid said at the last meeting, which is get the cars out, get the trailers out, and don't park them there.

Mrs. Rector stated there should be no unlicensed inoperable vehicles there. Mrs. Rector said that they do not get into insurance, that is a state law, and she does not know if they are operable and licensed or not.

Discussion ensued about the cars in the pictures.

Mrs. Rector stated the white van is his and runs and works.

Attorney Doll asked which vehicles has the applicant seen not move.

Mr. Fulz stated the blue car, the old Plymouth.

Attorney Doll asked then only the blue car, as far as he knows, doesn't run.

Mr. Fulz said yes, he is sure of it.

Mrs. Rector asked didn't he say at one time, that was his antique car he was fixing up. Mrs. Rector said it didn't matter because he still needed to put it inside.

Mr. Fulz asked if they could get rid of the dumpster.

Attorney Doll stated there was no law against it.

Mrs. Rector said the black truck, the blue truck, and the red truck are all his, or workers.

Mr. Fulz said they are the companies, and at the last meeting they were not supposed to be coming to his house.

Amanda Mosiman stated they were not supposed to be operating the business from the house, the fact that his workers drive there and they car pool out of the same truck is not operating a business.

Mr. Fulz said they go in and out all day, it's not like they meet up in the morning and at 5 they all kick off and go drink a beer, this is trailers moving in and out all day long.

Mrs. Rector asked what Attorney Doll thought.

Attorney Doll stated that he did not think that a judge would find these photographs to constitute either a junkyard or a public nuisance.

Mr. Fulz asked what about the business.

Attorney Doll said the photographs do not prove that he is operating a business there. Attorney Doll stated theoretically everything in these photographs; someone could have at their home. Attorney Doll said it was not pristine but he doubts the court would find it in violation.

Mrs. Rector asked if it was the end of March that he could move in.

Sheila Lacer stated that she remembered it being April 15th that he had to move his business, and he has been storing things at the new location.

Mrs. Rector agreed and stated that he did say that his workers would no longer be coming to his house working but you can't tell his workers not to come to his house.

Mr. Fulz asked what constituted a business then.

Attorney Doll said the question is whether the business activity is being conducted on these premises. Attorney Doll said previously the answer would have been yes, but currently the photographs don't indicate that it is.

Mr. Fulz said if you look at one of his photos you can see the blue pickup being loaded with trash.

Amanda Mosiman asked if it was from the facility and taking it out.

Mr. Fulz said it was from wherever he tore down the house and brought it in, and he is concerned about the houses. Mr. Fulz said that drug activity could have occurred in these houses and they

were abandoned and he is going back to them and getting them out and either crack or something is still left in the houses. Mr. Fulz said nobody can say that meth is not being made in these houses that are being torn down, and then they are coming back to the property and he is concerned about that.

The President suggested tabling the issue until the May meeting and he will get out and take some more pictures and have it back on the May meeting to determine if it is totally shut down like it should be.

Mr. Fulz said he agreed with that and didn't have a problem with it.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS:

Zoning Determination ~ Joseph Morgan, Pres. Morgan Arms ~ 600 S. Baker Road

Mr. Morgan was present.

Mrs. Rector stated Mr. Morgan came into the office about obtaining a permit for firearm distribution and it was explained to him that a commercial zoning would be required because of discussions with the ATF last year. Mrs. Rector said last year we had 3 individuals desiring to do the same thing as Mr. Morgan.

Mrs. Rector said in discussion with the ATF regarding these we were informed it is ATF policy the firearm must be transferred to the purchaser at the time the paperwork is done. Mrs. Rector said the reason for that is the person acquiring the gun has to answer questions at that time stating they have not been charged with any crime, such as violence, abuse, or have a restraining order against them, because it may not have been entered in the NICS database for background check yet. Mrs. Rector added the ATF also said it is their position that once the license is issued, the home is then a business.

Mrs. Rector stated Mr. Morgan submitted a letter stating *"I plan on ordering in firearms from distributors such as Zanders and Accusport and warehousing them in my detached garage. I will have a website made in which to sell them. I will also be selling firearms on the other websites such as Gunbroker and Guns America. The links from these outside sites should draw customers to my website. After being sold, the firearms will then be shipped to other dealers for the final transfer to the customer. No person to person transfers will take place at my home location and there will be no signage here. I also plan to sell these similarly acquired firearms at gun shows within the state of Indiana, with the transfers to be done at the gun show only. The 3rd part of my plan involves the manufacture and sale of rifle and pistol ammunition. I plan to load and package ammo in the same detached garage and sell it on my website and other websites such as Gunbroker and Guns America. Ammunition will be shipped directly to the customer. I plan on selling this same ammo at gun shows within the state of Indiana as well."*

Mrs. Rector said she received an email March 5th from Stan Baker, ATF Industry Operations Investigator, and he stated *“The plan Mr. Morgan proposes would fall within the transfer to another Federal Firearm License. In that process the transfer is between two ATF Federal Firearm Licensees and does not require the transferee to appear at the licensed location to complete an ATF Form 4473. The applicant from January 2012 wanted to transfer to a non-licensee away from the licensed location which would not be allowed. The business plan submitted by Mr. Morgan would comply with ATF Regulation’s. In addition, ATF Regulations require the FFL comply with all state and local laws to include zoning.”* He added *“two exceptions to the transfer on business premises:*

- 1. The transfer is conducted as a broker or internet sales. The purchaser does not live in the local area and the firearm is transferred to another licensee for transfer to the non-licensee.*
- 2. The transfer is for a gunsmith (repair) action. The firearm is mailed to or dropped off at the licensed premises for repair or modification, the owner of the firearm would not complete the ATF form 4473 for purchase and would not be required to pick up the firearm in person.*

In both situations the transfer would not be required to take place at the licensed premises.”

Mrs. Rector said she asked Mr. Baker if the ATF regulates the manufacturing of ammunition. She said his response was *“ATF requires an FFL for manufacture of ammunition but it is mainly for tax purposes. There is no requirement for onsite sales etc.”*

Mrs. Rector said she would like for the Board to make a determination. 1.) If plan 1 & 2 would fall under the Home Occupation or 2.) Would it require commercial zoning that the Board had determined was required for others.

Mrs. Rector said if plan 3 would require a 1.) Industrial Zoning or 2.) Qualify as a Home Workshop.

Mrs. Rector asked would putting all plans together require a Home Workshop since all activities are taking place in an unattached building.

Mrs. Rector said there are 5.56 and 4.6 acres and they are in Rhonda Bakers name. She said it is zoned “Con” and “Ag”, the house and unattached building is located on the 4.6 acre tract. Mrs. Rector added the unattached building is 1920 sq. ft. according to the plot plan on their permit. Mrs. Rector stated she has attached the emails, Mr. Morgan’s plans, the definition of Home Occupation, and aerial photographs of the property.

Mrs. Rector stated that he has enough ground to qualify for the Home Workshop, 4.6 acres he could have a 4000 sq. ft. building.

Attorney Doll asked how big the attached building is.

Mrs. Rector stated it is 1920 sq. ft., so it qualifies, he has enough ground, and he is not exceeding the square footage for the home workshop. She questioned Mr. Morgan if he plans to have any employees.

Mr. Morgan said no, just him.

The President asked about amount of ammunition he will be doing, is that regulated by anything or what is it that he is reloading.

Mr. Morgan stated he would mainly be doing pistol ammo, 45, 40, and 9 mm ammo. He said you can't buy it anywhere right now, and you can hardly buy the components to make it, but he stated it would be maybe 1000 rounds a week, just what he can turn out himself.

The President asked if there were any requirements for the powder, does it have to be locked up or anything like that, or is it regulated by Federal laws.

Mr. Morgan said no it just has to be in a steel cabinet.

Mr. Reid said it sounds like a hobby.

Mr. Morgan said he has been reloading ammo there for 10 years; the only difference is that now he wants to sell it on a website.

Mrs. Rector said she felt to make it all clean and fit together; this was the purpose of creating the Home Workshop to have a small business at his home.

The President said especially it being located in a separate building; he thinks it would fit more in the Home Workshop.

Mr. Morgan said there is one issue, there are 2 separate FFL's that they are talking about. He said one is for the sale of firearms, and the second one is for the manufacture of ammunition, so there is actually 2 separate FFL's that he has applied for.

Mrs. Rector asked if he was going to have retail sales at all, or was he strictly shipping it all out.

Mr. Morgan said that was correct, or go to a gun show.

Mrs. Rector said because you can't have that in either one of these.

Mr. Morgan said he understood that. He said what he intends to do is if he gets to that point of wanting to have retail services he will try to rezone.

The President said or have employees.

Mrs. Rector said it depends how big his building is but right now he can have one employee.

Attorney Doll said he could have almost 2.

Mr. Morgan said if it comes to that then he will try to rezone that to commercial or he will build another building somewhere else, or rent something here on the square.

Attorney Doll asked if there was any ground around him already zoned commercial.

Mr. Morgan said no.

Attorney Doll then said it would be something called spot zoning, when you come into an area and you don't have anything like it and you want to change it to manufacture or commercial the Indiana Supreme Court has said that is an illegal activity because it is something called spot zoning. Attorney Doll said he is not saying he doesn't have a right to apply to do this in years to come but he wants him to know that it may be difficult to do.

Mr. Morgan said he understands.

Attorney Doll stated that he thought this would be a Home Workshop.

The President asked if that was the consensus.

Mrs. Rector said yes that is fine and instructed Mr. Morgan to come into the office tomorrow, it will be a Special Use before the Board of Zoning Appeals, and they will take care of it.

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Mrs. Rector asked if the Board received her email about the elevator.

They said yes.

Mrs. Rector said Rodger got an email from the elevator company today and they can't guarantee that it will be done by the 8th. Mrs. Rector asked if they did anything in the Commissioners' meeting today.

Mr. Reid said they want to do it earlier, as soon as possible because they didn't have anything for the next BZA meeting and they are going to start immediately.

Mrs. Rector said ok.

Discussion ensued about the elevator being out and changing meeting rooms for other meetings in the court house.

Mrs. Rector said the only problem she has with moving the meetings is the recording system. She said they used to meet at the school corporation, Roger said it was possible to meet there, and it had a recording system.

Attorney Doll said the courts have a recording system.

Mrs. Rector said the fourth court room may be an option. Mrs. Rector said this Wednesday they have to send out the notices because they have to mail them out 21 days before the meetings so they need to know where the meetings will be.

The President asked if it would be legal, if the meeting gets changed for emergency purposes could you post it on the door.

Attorney Doll said yes, you could post it on all of the doors.

Amanda Mosiman added that they could then start the meeting 10-15 minutes late.

The Board agreed that would work.

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Mrs. Rector stated Attorney Doll has filed the lawsuits against Adams and the lawsuit against Quick.

The President asked about the Rainey case.

Attorney Doll said Mr. Rainey showed up late, in December Mrs. Rector and himself waited until 20 minutes after the scheduled hearing and no Mr. Rainey. He said the court then defaulted Mr. Rainey and told him to prepare the order. Attorney Doll said he prepared the order, submitted the order, it got stamped by the court staff as granted and then when he questioned about the cleanup time, the variable in the order was not filled in, they called the Judge and the Judge said that he had not granted that order. Attorney Doll said Mr. Rainey showed up late, said his wife had been ill, and he couldn't get there and he apologized. The Judge told Mr. Rainey to call him and talk to him, and he has no unreturned phone calls. Attorney Doll said Mr. Rainey never contacted him. Attorney Doll stated that Sheila Lacer and he went back on March 2nd, which was the date the Judge ordered everybody back to get this resolved, and they waited an hour. Attorney Doll said there were no remaining cases; they were there when court began and when it ended. He said Mr. Rainey did not appear and the Judge signed the order and gave him 30 days to clean it up. Attorney Doll said after that Warrick County can go in there and clean it up.

The President asked if it had to go back to court after the 30 days.

Attorney Doll said he recalls that Warrick County already has the authority to go in; the only time they have to go back is to access damages to recoup their costs.

Mrs. Rector said Bobby Howard wants to meet with the Board to go over everything.

Attorney Doll said while he and Sheila were at the court they saw another case where another gentleman, who had missed his court date, had been sued by a local hospital and he was asking that the judgment be set aside, he had been defaulted. Attorney Doll said the hospital was

present and objected strenuously, and the Judge over-ruled the hospital and set aside the default and he said on the record, it is his philosophical opinion that everybody should have their day before the court, that if you get sued, he is going to give everybody the opportunity to be heard. Attorney Doll stated that for future edification this could happen again because that appears to be Judge Hendrickson's philosophy.

Mrs. Rector asked what amount of money we are saving by going to small claims court instead of how we used to in the ordinary court, because it seems like everything ran a lot smoother then.

Attorney Doll said they pay no filing fee to bring the cause of action, so that is approximately \$135-140 that the county saves because ordinance violations are exempt from paying a filing fee. Attorney Doll said we can normally get a quicker hearing; getting hearings in Judge Meyers' court is very difficult to do because he is obligated by state statute to hear certain types of cases within a limited number of days, so they bump us out of all of our hearing dates. Attorney Doll said that he can't say that they will get things through faster in ordinary court than small claims court, in fact he filed these 2 cases and they are set for April 12th, which is not very far away. Attorney Doll added that small claims court is a rotated docket and that he doesn't think they will get through the regular courts any faster. He said they have not lost a case yet in Judge Hendrickson's court, he has found every petition valid and has ordered them to be cleaned up; court systems do not move fast.

Mrs. Rector replied that in December the Judge told Mr. Rainey that if he didn't have his property cleaned up by January 18th the county is going to clean this up, and made sure that he understood. She said he gave him that day, we go back January 18th and nothing is done, the man doesn't show up, he chases them down the highway, Attorney Doll gives him an action to do, and then he won't sign it, they go back to court, he doesn't show up, and they give him another 30 days. Mrs. Rector said that it cost us every time we have to go back, Attorney Doll is not doing it for free, so that is why she was asking where are they saving the money at because if you have to keep going back then maybe it's worth the \$140 and wait a couple of months to go to ordinary court.

Attorney Doll said if they would like for him to try an experiment he can try to file one in the circuit or superior court.

Mrs. Rector said it is true, Judge Hendrickson always does, but she is afraid that they don't take it serious enough. Mrs. Rector said but they don't know what all they have gone through.

Attorney Doll said for example there are 8 exhibits attached to the ordinance violation, the petition is about 35 pages long, all the colored photographs are reproduced and indexed by letters, and the action with Mrs. Rectors letters giving cease and desist instructions, so when he sees it he knows that we haven't just done this at the drop of a hat, we've been chasing this problem for months.

Discussion ensued about the Rainey case compared to the Quick case.

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Mrs. Rector stated the small business committee that she is on has created a task force which consists of engineers, builders, and developers to go over our subdivision and zoning ordinance. Mrs. Rector said she is on it and Bobby Howard is on it from the county, she said she has gone to two meetings, Bobby has been sick and hasn't attended one yet but Brent, Bobby's assistant has attended. She said they have been meeting at Rolling Hills. Mrs. Rector said basically, they will have to take it to the Commissioners and give them a report, but one of their main issues is to do away with sidewalks being required in any development. Mrs. Rector said the main concerns are economics and ADA requirements. She said she wanted them to know this issue will be coming before them at some time.

The President said his vote is no, he likes the sidewalk along the state highway in Chandler, he thinks it is fantastic. The President said they should have sidewalks everywhere in Warrick County.

Mrs. Rector said she knew how The President felt, and she has told them his feelings about it, and she has told them Attorney Dolls feelings about it.

Attorney Doll stated he thought they were opening themselves up for liability, exposure for children playing in the streets.

The President agreed.

Attorney Doll said getting on and off buses will be a mess.

Mrs. Rector said they are meeting and she doesn't know what the recommendations will be coming back at them. Mrs. Rector said she is also trying to work on all of the new codes that have changed and she will probably have to take a week off work and do it at home because she can't get it done at work. Mrs. Rector told Attorney Doll she will try to get them together but they will have to sit down together sometime because this is a lot of work and there are a lot of changes.

Attorney Doll agreed and said there will be a lot of changes to the ordinance.

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The President asked if there was anything else to discuss.

Amanda Mosiman questioned about how they have kept tabling the domesticated animal issue.

Mrs. Rector said that is because they have so many Indiana Code's that have changed.

Amanda Mosiman said they have to change that language.

Mrs. Rector asked Amanda Mosiman to come up with some for her.

Amanda Mosiman said basically all they have to do is come up with a definition, to change domestic animals to livestock and have a definition of livestock.

Attorney Doll asked if there was something in the Indiana Code.

Amanda Mosiman said they have a State Board of Animal Health that has a definition of livestock.

Attorney Doll said they have a State Statute that authorizes the State Board of Animal Health to have an administrative code and in the administrative code is the definition of livestock and that is the definition we should follow.

Amanda Mosiman agreed.

Being no other business, Jeff Valiant made a motion to adjourn the meeting. Rick Reid seconded, and the motion was unanimously carried, the meeting adjourned at 7:06 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director